

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 3, 2022/2023 (TERM ID 2230)

### UIB2612 ISLAMIC BANKING AND FINANCE LAW

(All Sections / Groups)

6<sup>TH</sup> OCTOBER 2023

Reading Time: 9.00 a.m. - 9.15 a.m.

Answering Time: 9.15 a.m. - 12.15 p.m.

(3 Hours 15 Minutes)

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#### INSTRUCTIONS TO STUDENT

1. Students will have fifteen minutes during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only.
3. Attempt **TWO (2)** questions from Part A and **ALL** questions from Part B. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into the exam venue the **CLEAN** and **ORIGINAL COPY** of: Islamic Financial and Services Act 2013; and (ii) Central Bank of Malaysia Act 2009. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

**PART A****ANSWER TWO (2) QUESTIONS****QUESTION 1**

Article 121(1) of the Federal Constitution provides for the establishment of the Civil Court with its powers and jurisdiction to be conferred by Federal Laws while Paragraph 1 of List II of the Ninth Schedule of the Federal Constitution grants the power to the State Legislature to pass laws for the constitution, organisation and procedure of Shariah court.

In year 1988, Parliament has made constitutional amendment by introducing Article 121(1A) to the Federal Constitution with the objective to avoid potential conflict of jurisdiction between the Shariah Court and the Civil Court which had occurred in a number of cases prior to the amendment.

Discuss the above with regard to adjudication of Islamic Banking matters in Malaysia. Your analysis must be supported with relevant provisions and case law.

**(Total: 25 Marks)**

**QUESTION 2**

A Takaful company does not have policyholders. It has 'Contributors' or 'Participants' as they are participating jointly in a Takaful fund for their mutual benefit.

Discuss in detail the unique concept of Takaful as compared to Conventional Insurance. Your answer should be supported by relevant sources and authorities.

**(Total: 25 marks)**

**QUESTION 3**

In the case of *Mohd Alias Ibrahim v RHB Bank [2011] 3 MLJ 26*, the Court held that the practice of the Civil Court referring questions on Islamic Law to Islamic Authorities (SAC) is not something new and the sole purpose of establishing SAC is to create a specialized committee in the field of IB, not an attempt by the executive to take over the judicial power traditionally exercised by the court.

- a) Explain the roles and duties of the Shariah Advisory Council provided by the Central Bank of Malaysia Act 2009, including their roles in Court cases.

**(15 marks)**

**Continued...**

- b) Indicate the duties and functions of the Shariah Advisory Committee established in the Islamic Financial Institution (IFI). Support your answer with relevant provisions provided under the Islamic Financial Services Act (IFSA) 2013.

(10 marks)

**(Total: 25 Marks)**

**Continued...**

**PART B****ANSWER ALL QUESTIONS****QUESTION 4**

The Islamic finance industry has witnessed a rapid growth in many parts of the world due to the increasing demand for Shariah- Compliant products. Various products have been developed based on the principles of legitimate finance, one of them is the contract of *Musharakah Mutanaqisah* or Diminishing Partnership.

- (a) Demonstrate the concept of *Musharakah Mutanaqisah* as applied in Home Financing-i and how it is used as a mechanism by the Islamic Financial Institution (IFI) to provide financing facilities and making profit at the same time.

(13 marks)

- (b) Discover the concept of *Murabahah* in Home Financing-i as offered by the Islamic Financial Institutions (IFI) in Malaysia.

(12 marks)

**(Total: 25 Marks)**

**QUESTION 5**

Thomas, a project manager of Syarikat Terus Untung came to you to ask about credit facilities to finance the housing development project of the company. As the executive of Islamic Bank ABC, you are required to brief Thomas and explain to him one of the products offered by the bank which is based on the concept of "profit and loss sharing". Illustrate the arrangement of this facility between the bank and the customer, its features, elements and conditions. Cite the relevant authorities where appropriate.

**(Total: 25 Marks)**

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